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7590

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EXAMINER

RADA, ALEX P

ART UNIT

PAPER NUMBER

3713

DATE MAILED: 04/15/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/813,743

Applicant(s)

CHAMBERLIN, JAMES L.

Examiner

Alex P. Rada

Art Unit

3713

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Information Disclosure Statement***

1. The listing of references in the specification is not a proper information disclosure statement. 37 CFR 1.98(b) requires a list of all patents, publications, or other information submitted for consideration by the Office, and MPEP § 609 A (1) states, "the list may not be incorporated into the specification but must be submitted in a separate paper." Therefore, unless the references have been cited by the examiner on form PTO-892, they have not been considered.

### ***Drawings***

2. This application has been filed with informal drawings which are acceptable for examination purposes only. Formal drawings will be required when the application is allowed.

3. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: on page 4, line 6, the connectors 19. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

### ***Claim Rejections - 35 USC § 112***

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

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5. Claims 3, 10, 16, 19, and 20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claims 3, 10, 16-17, 19, and 20, the phrase, "bag-shaped" is vague and indefinite because all of the structures that applicant considers to be "bag-shaped" cannot be determined.

***Claim Rejections - 35 USC § 102***

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 1-10, and 19-21 are rejected under 35 U.S.C. 102(b) as being anticipated by Allard '193.

8. Allard discloses a support connected to a computer monitor, a contact element for striking or squeezing to relieve stress, a punching bag, and a sound-producing device to produce a sound when the bag is struck.

***Claim Rejections - 35 USC § 103***

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Allard '193.

11. Allard disclose most of the elements as described above. Allard does not expressly disclose recording selected sounds on to memory. It would have been obvious to one of ordinary skill in the art to provide a game player to record selected sound to personalize the sound effects of the boxing game.

12. Claims 11-14 and 16-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Denton '768 in view of Hilton '212.

13. Denton discloses a rigid support connectable with a computer component, and the connector configured to releaseably engage an engagement element on the computer component. Denton does not expressly disclose a contact element moveably mounted to a support and the contact element is a punching bag. Hilton teaches a contact element (punching bag) capable of being moveably mounted to a support. By having contact element moveably mounted to a support, one of ordinary skill in the art would be able to position the device to any anyone's preferences. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the applicant's invention was made to modify Denton to include a contact element moveably mounted to a support and the contact element is a punching bag as taught by Hilton. To do so would be able to adjust the device for easy access.

14. Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Denton and Hilton in view of Allard.

15. Denton in view of Hilton discloses most of the elements as described above. Denton and Hilton do not disclose the contact element including a sound-producing device. Allard teaches a boxing arcade game having a contact element having a sound-producing device. By having a

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sound-producing device, one of ordinary skill in the art would be able to provide different effects when striking the contact element. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the applicant's invention was made to modify Denton to include a contact element having a sound producing device as taught by Allard. To do so would be able to provide different sound effect to increase the enjoyment of the device.

16. Claim 18 is rejected under 35 U.S.C. 103(a) as being unpatentable over Denton and Hilton in view of Fotsis '940.

17. Denton in view of Hilton discloses most of the elements as described above. Denton and Hilton do not disclose the contact element including display indicia. Fotsis teaches a contact element having display indicia (36). By having display indicia, one of ordinary skill in the art would be able to have a visual aid while striking the contact element. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the applicant's invention was made to modify Hilton to include a contact element having display indicia as taught by Fotsis. To do so would be able increase the enjoyment of the device by providing a picture of an opponent.

### *Conclusion*

18. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Huang '681 discloses a copyholder for a computer monitor.

Juarez '109 discloses a hand exerciser and stress-relieving device that provides exercise to the arm wrist, and hand of a user.

Lee '814 and '945 discloses an adjustable copyholder assembly to fasten to the shelf of a computer monitor.

Winn '660 discloses a high-speed, portable computer interfaced, fluid-filled, foam-padded, heavy bag with local electronic force indicators.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alex P. Rada whose telephone number is 703-308-7135. The examiner can normally be reached on Monday - Friday, 08:00-16:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Valencia Martin-Wallace can be reached on 703-308-4119. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9302 for regular communications and 703-872-9303 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1148.

Alex P. Rada  
Examiner  
Art Unit 3713

ARR  
apr  
April 9, 2002

  
JESSICA HARRISON  
PRIMARY EXAMINER